

FILED

FEB 11 2013

**Board of Vocational Nursing
and Psychiatric Technicians**

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9 **BEFORE THE**
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. VN-2010-2438

12 **MICHELE DENISE PEETZ**
13 **327 W. 15th Avenue, #20**
14 **Escondido, CA 92025**

A C C U S A T I O N

15 **Vocational Nurse License No. VN 178501**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in
20 her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric
21 Technicians, Department of Consumer Affairs.

22 2. On or about October 24, 1996, the Board of Vocational Nursing and Psychiatric
23 Technicians issued Vocational Nurse License Number VN 178501 to Michele Denise Peetz
24 (Respondent). The Vocational Nurse License was in full force and effect at all times relevant to
25 the charges brought herein and will expire on June 30, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Bureau jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1 of the Code, the Bureau may renew an expired license at any time within four years after the expiration.

5. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline the holder of a vocational nurse license for any reason provided in Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6. Section 2878 of the Code states:

The Board may suspend or revoke a license issued under this chapter [the Vocational Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to the following:

(1) Incompetence, or gross negligence in carrying out usual nursing functions.

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REGULATORY PROVISION

6. California Code of Regulations, title 16 Section 2519 states:

As set forth in Section 2878 of the Code, gross negligence is deemed unprofessional conduct and is a ground for disciplinary action. As used in Section 2878 "gross negligence" means a substantial departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent licensed vocational nurse, and which has or could have resulted in harm to the consumer. An exercise of so slight a degree of care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of

1 the consumer shall be considered a substantial departure from the above standard of
2 care.

3 COST RECOVERY

4 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 FACTS

9 8. In 2010, Respondent was employed as a licensed vocational nurse by Maxim
10 Healthcare Services, Inc. as a home healthcare nurse. She was assigned to care for a 16 year-old
11 male who had been in a serious accident with a car while riding his bicycle two years previously.
12 As a consequence of the accident, the patient severed his spinal cord rendering him a
13 quadriplegic, and ventilator dependent. Also, his right leg below the knee was amputated. He
14 lived at home with his mother and step-father and had 24-hour nursing care from two licensed
15 vocational nurses who each worked 12-hour shifts. Respondent cared for the patient from 7:00
16 p.m. to 7:00 a.m. each day. The physician's Plan of Care for the patient included continuous
17 oxygen saturation monitoring via a finger probe, which would have caused an alarm to sound if
18 the patient's oxygen saturation level dropped below 95 percent.

19 9. At approximately 1:30 a.m. on November 28, 2010, the patient was sitting in his
20 wheelchair watching his brother play videogames when their mother entered the room and told
21 them it was time for bed. At about 2:00 a.m., Respondent had the patient prepared for bed.
22 Respondent checked on the patient at 5:00 a.m. and found he was sleeping and his oxygen
23 saturation level was at 98 percent. Respondent checked on him at approximately 6:14 a.m. and he
24 felt cool to the touch. She turned on the light and saw that the patient was cyanotic. Respondent
25 left the patient and woke up his mother asking her to call 911. Respondent then returned to the
26 patient and starting ambu bagging him until the paramedics arrived. Respondent admitted she did
27 not check for a pulse or start chest compressions. The patient died.

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1 10. Later when asked by her employer why she did not follow the doctor's order for
2 continuous oxygen saturation monitoring, Respondent stated that the patient was having "strong
3 and frequent spasms" which caused the finger probe to fall off so she performed intermittent
4 checks of the patient's oxygen saturation level instead of continuous monitoring.

5 **CAUSE FOR DISCIPLINE**

6 (Gross Negligence)

7 11. Respondent has subjected her license to discipline for unprofessional conduct
8 pursuant to Code section 2878(a)(1), in that she was grossly negligent in her care and treatment of
9 her 16 year-old patient, as demonstrated by the following::

10 a. Respondent failed to contact the physician or nursing staff when the oxygen
11 saturation probe continued to fall off of the patient's finger; and

12 b. Respondent failed to perform chest compressions on her patient as part of
13 providing CPR to her patient.

14 **PRAYER**

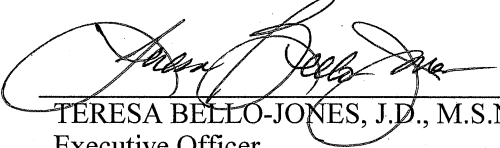
15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
17 issue a decision:

18 1. Revoking or suspending Vocational Nurse License Number VN 178501, issued to
19 Michele Denise Peetz;

20 2. Ordering Michele Denise Peetz to pay the Board of Vocational Nursing and
21 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
22 pursuant to Business and Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: **FEB 11 2018**

25 
26 TERESA BELLO-JONES, J.D., M.S.N., R.N.
27 Executive Officer
28 Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant